THE HON'BLE MR JUSTICE B.PRAKASH RAO

And

THE HON'BLE MR JUSTICE D.APPA RAO

WRIT APPEAL NO.1519 of 2004

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22nd February 2006

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 03.12.2003 in W.P.NO.10957 OF 2001 on the file of the High Court.)

Between:

1. APSRTC rep., by its Managing Director,
   RTC X Roads, Mushirabad, Hyderabad.

And three others.

...APPELLANTS

AND

K.V.V.S.Narayana, s/o Satyanarayana Murthy,
r/o Gangalakur Village, Ambajipeta (Mandal),
East Godavari District.

...RESPONDENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

And

THE HON'BLE MR JUSTICE D.APPA RAO

WRIT APPEAL NO.1519 OF 2004

JUDGMENT: (Per the Hon'ble Mr Justice B.Prakash Rao)

Heard Sri P.Vinayaka Swamy, the learned Standing Counsel for A.P.S.R.T.C. appearing for the appellants and Sri K.L.N.Swamy, the learned counsel appearing for the respondent.

The appellant/Corporation filed this Writ Appeal, *inter alia*, seeking to assail the order dated 03.12.2003 of the learned Single Judge allowing the Writ Petition being W.P.No.10957 of 2001 filed at the instance of the respondent herein as against the order of his termination.

The facts, which are necessary for disposal of this appeal, are that the respondent is an employee working as Conductor in A.P.S.R.T.C. Basing on a complaint given by

a lady on 04.08.1998, a criminal case was registered against the respondent vide Crime No.161 of 1998 of Amalapuram Town Police Station for the offences under Sections 307 and 363 of the Indian Penal Code read with Section 25 of the Indian Arms Act, 1974. On 04.08.1998, the respondent was arrested and sent to judicial custody. Subsequently, on 17.08.1998 he was released on bail. By placing reliance on the said criminal proceedings and the report of the police, a charge memo was issued and the appellants suspended the respondent pending enquiry. Ultimately, after holding an enquiry, he was removed from service as per the proceedings dated 24.04.1999. Challenging the same, he preferred an appeal before the third appellant and the same was dismissed as per the order dated 10.02.2000. The respondent preferred a revision before the second appellant and the same was dismissed as per the order dated 11.04.2000. Hence, the respondent filed the Writ Petition being W.P.No.10957 of 2001. After going through the entire evidence, the learned Single Judge allowed the Writ Petition holding that except placing reliance on criminal proceedings and the police report, there is no independent enquiry against the respondent and the findings of the appellants in all these proceedings were set aside. Hence, the appeal.

Having heard on either side and on perusal of the material available on record, it is seen that the entire case against the respondent squarely rests on the criminal proceedings and the police report and no independent enquiry was conducted as per law. The very charge is based on the police report and the criminal proceedings and ultimately, he was removed from service on 24.04.1999.

The learned counsel for the respondent represented that the respondent was

acquitted on 02.02.2001 of the offences with which he is charged, which date is much later to the date of removal.

Be that as it may, it is now well settled that the criminal proceedings or otherwise should not include the disciplinary proceedings leading to suspension or removal from service. It is always open for the Corporation to conduct fresh enquiry on their own and take appropriate action against the respondent in accordance with law. In view of the same, we do not find any ground to interfere with the order of the learned Single Judge.

Accordingly, the Writ Appeal is dismissed. However, it is open for the Corporation to initiate disciplinary action against the respondent from the inception by framing appropriate charges and pass orders in accordance with law after giving sufficient notice and opportunity to the respondent. No costs.

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(B.PRAKASH RAO, J)

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(D.APPA RAO, J)

22nd February 2006

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